



U.S. Department of Justice

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Tax Division

Please reply to: Civil Trial Section, Northern Region
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August 2, 2018

Via ECF

The Honorable Kiyo A. Matsumoto
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *United States v. Martin Shkreli*
15-cr-637 (KAM) E.D.N.Y.

Dear Judge Matsumoto:

I represent the United States of America on behalf of the Department of Treasury, Internal Revenue Service ("IRS") in this matter. I write in response to defendant Martin Shkreli's objection to the proposed Final Order of Forfeiture (Dkt. No. 638-2), which was submitted upon stipulation between the United States, the IRS, and the New York State Attorney General ("NYS"). I submit this limited response solely to address Mr. Shkreli's statements regarding his federal tax liabilities.

In his objection, Mr. Shkreli asserts that "the amount of the personal income tax obligations to [the IRS] have not reached final resolution," and that "there is an IRS Tax Court appeal pending regarding the amount of the personal tax obligation owed by Mr. Shkreli." (Dkt. No. 646 at 3 and n.2.) These statements are misleading at best, and should not inform the Court's judgment as to how to resolve the Final Order of Forfeiture.

As the IRS set out in its Petition for an Adjudication of Interests Pursuant to 21 U.S.C. § 853(n)(6)(A) (Dkt. No. 611), Mr. Shkreli owes federal income tax liabilities for tax year 2015 in the amount of \$1,695,397.61 as of May 7, 2018, plus statutory additions that continue to accrue. Mr. Shkreli self-reported his 2015 income tax liability on his income tax return for that year (Form 1040). In other words, he determined and reported the amount of his tax liability himself.

On October 17, 2017, Mr. Shkreli submitted a petition to the U.S. Tax Court with regard to collection of his 2015 income tax liability. A copy of the petition is attached hereto as Exhibit

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A. As is plain from the face of the petition, it does not dispute the amount of tax owed. Rather, it disputes as premature the IRS's action in filing a Notice of Federal Tax Lien on Mr. Shkreli's property in order to secure the tax debt, given his ongoing legal difficulties. In the petition, Mr. Shkreli makes it clear that he does not challenge the amount of the tax liabilities, stating that he "has identified sufficient funds in order to pay tax liabilities. These funds are currently held in an account that secures bail. Legal actions are pending regarding the release of bail funds in order to pay the outstanding tax liability in full." Exhibit A at 3. This appears to be a clear reference to the E*Trade account, and Mr. Shkreli's intention to use the funds therein to pay his tax liability. In any event, given the fact that Mr. Shkreli's 2015 income tax liability was self-reported and that he does not challenge the amount of the liability in his Tax Court proceeding, it is simply not true that the amount the IRS seeks to collect is in dispute.

Finally, the IRS is surprised by Mr. Shkreli's change in position as to payment of his federal tax liabilities. As recently as October 2017, Mr. Shkreli requested that the Court lift the restraint on the E*Trade account specifically to allow him to pay his tax liabilities, in order to avoid the continuing accrual of interest and penalties. (Dkt. No. 415.) On October 25, 2016, the Court granted a request by Mr. Shkreli to release \$944,959.41 from the E*Trade account and transfer that amount to the IRS as a partial payment toward his income tax liabilities. (Dkt. No. 102.) In his most recent filing, Mr. Shkreli fails to explain his abrupt reversal, which is contrary not only to his past statements and his Tax Court filings but also to his apparent financial interests, given that, as Mr. Shkreli has pointed out to the Court in the past, penalties and interest continue to accrue on his liabilities.

Respectfully submitted,

/s/ *Stephanie Weiner Chernoff*
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CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2018, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all registered CM/ECF participants for this case.

Respectfully Submitted,

/s/ Stephanie Weiner Chernoff
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